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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,123	08/25/2000	Vincent P. Stanton JR.	030586.0009.CIP2	6346

26161 7590 01/06/2003

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

EXAMINER

WILDER, CYNTHIA B

ART UNIT	PAPER NUMBER
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1637

DATE MAILED: 01/06/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/648,123

Applicant(s)

STANTON, V.

Examiner

Cynthia B Wilder

Art Unit

1637



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Dec 9, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Dec 9, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment to Advisory Action.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 17-26

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other:

Art Unit: 1637

ATTACHMENT TO ADVISORY ACTION.

1. Applicant's amendment filed December 9, 2002 in Paper No. 13 has been reviewed but will not be entered because the new claim limitations wherein the probe is "at least 15 nucleotides and hybridizes under stringent conditions to a variant human cytochrome P-450 gene having a T to C variance at nucleotide 732 and does not hybridize under stringent conditions to a human cytochrome P-450 gene not having a T to C variance at 732" requires further search and consideration. Specifically, the new claim limitation changes the scope of the claims which was not considered in the prior Office actions. Likewise, the claims are confusing at "stringent conditions" because the hybridization conditions have not been defined in the specification or claims and it cannot be determined what is considered "stringent conditions". Accordingly, a new search and consideration is required to determine patentability.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cynthia Wilder whose telephone number is (703) 305-1680. The examiner can normally be reached on Monday through Thursday from 9:30 am to 6:30 pm and on Friday from 9:30 am to 1:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion, can be reached at (703) 308-1119. The official fax phone number for the Group is (703) 308-4242. The unofficial fax number is (703) 308-8724.

Application/Control Number: 09/648,123


Page 3

Art Unit: 1637

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Group's receptionist at (703) 308-0196.

Cynthia B. Wilder, Ph.D.

December 30, 2002


KENNETH R. HORLICK, PH.D.
PRIMARY EXAMINER
1/2/03